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Salaried Retiree of Debtors

UNITED STATES BANKRUPTCY
COURT SOUTHERN DISTRICT OF
NEW YORK

-----x Chapter 11 Case No. 05-44481 (RDD)

In re:

DELPHI CORPORATION, et. al.,

Debtors.

: (Jointly Administered) :

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**OBJECTION TO REORGANIZED DEBTORS' MOTION
FOR FINAL DECREE AND ORDER CLOSING
THE BANKRUPTCY CASES**

1. In response to the debtors recent motion for final Decree (docket number 22073), I am writing to object to closing the case concerning DPH Holdings and the issuing of a final decree because the debtor has not fully complied with **11 USC 1142 (a)**, in that the debtor has violated an order of this Court, which was issued in the final OPEB order regarding payment of retiree benefits, specifically as it pertains to payment of the Supplemental Extended Disability Benefit (SEDB) of the objector, James B Sumpter. (See docket # 16448). The OPEB order (on page 3, item 4) states the following:

The Debtors shall continue to provide benefits for claims incurred by each Eligible Salaried Employee through the cessation date of such retiree's participation in the applicable welfare plan, provided that such retiree has timely paid all requisite contributions for the applicable plan, and provided further that such retirees shall not be required to file proofs of claim in this Court to implement the terms of this decretal paragraph.

2. However, the debtor, in direct violation of this order, illegally, stopped making SEDB payments (**post confirmation**) to James B. Sumpter, the objector, last March 2012.

3. Also, the debtors' motion for final Decree should be denied, since pursuant to Fed. R. Bankr. P. 3022 the case is not fully administered.

4. In addition, I filed a complaint in Federal District Court (SDIN)¹ on June 26, 2013, which, in the First Cause of Action, seeks payment of the SEDB benefit (\$249,390), consequential damages of \$52,878 and interest; and other damages as outlined in Causes Two through Six, for the debtor's **post confirmation** violations of several federal statutes and the resulting injury to me, in the amount of \$8,571,962².

5. A copy of the complaint is included as Attachment I.

6. I am particularly concerned about the potential dissolution of DPH Holdings and the potential lack of available funds to pay damages that I anticipate will be awarded as a result the Indiana complaint.

7. However, I am willing to drop this objection if either of the three following conditions are met:

¹ SUMPTER v. DPH HOLDINGS, INC. et al - CASE #: 1:13-cv-01024-WTL-TAB

² The Fifth Cause of Action in Sumpter Indiana complaint does not apply to DPH Holding.

a. Condition One:

- i. Pursuant to **11 USC 105 (a)**, the court, sua sponte, orders the debtor to immediately pay the Sumpter SEDB benefit as described in the First Cause of Action in the Indiana complaint(**\$302,268** and app **\$4036** in interest); and
- ii. The Court, sua sponte, orders the debtor to establish a dedicated trust in the amount of **\$8,571,962**, exclusively for the payment of judgments resulting from the Sumpter Indiana complaint; or
- iii. A different apportionment between paragraphs i and ii, such that the minimum payment in paragraph “i” is at least **\$252,390**.

b. Condition Two:

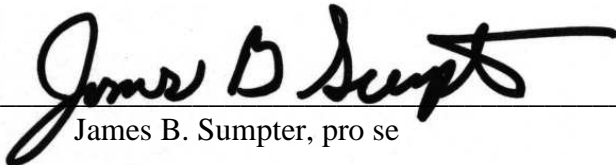
- i. The debtor, on its own initiative meets the requirements outlined in Condition One.

c. Condition Three:

- i. The Court sua sponte orders the debtor to establish a dedicated trust in the amount of **\$8,892,000**, exclusively for the payment of judgments resulting from the Sumpter Indiana complaint.

WHEREFORE, I respectfully request this Court to provide the relief requested above.

Dated: Noblesville, Indiana
July 16, 2013

By: 
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